

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

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U.S. DISTRICT COURT  
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BY KR

BURNS, MORRIS & STEWART )  
LIMITED PARTNERSHIP, )  
P.O. Box 631247 )  
1124 Bennett Clark Road )  
Nacogdoches, TX 75963 )  
Plaintiff, )

vs. )

Civil Action No. 9:04cv168

Masonite International Corporation )  
1 Dale Mabry, Suite 950 )  
Tampa, Florida 33609 )

Jury Demanded

And )

Masonite Entry Door Corporation )  
c/o Statutory Agent )  
Corporation Service Company )  
701 Brazos Street, Suite 1050 )  
Austin Texas 78701 )

Defendants. )

JUDGE HEARTFIELD

**COMPLAINT AND JURY DEMAND**

Plaintiff, Burns, Morris & Stewart Limited Partnership ("BMS"), by and through its attorneys, hereby complains and alleges against Defendants, Masonite International Corporation and Masonite Entry Door Corporation as follows:

## **PARTIES**

1. Plaintiff BMS is a Limited Partnership organized under the laws of Texas and having its principal place of business at 1124 Bennett Clark Road, Nacogdoches, Texas 75961.
2. Defendant Masonite International Corporation is a Canadian Corporation with its principal business address in the United States Located in Tampa, Florida.
3. Defendant Masonite Entry Door Corporation is a Florida Corporation, and a subsidiary of Defendant Masonite International Corporation with offices in Tampa, Florida and whose registered agent in Texas is Corporation Service Company d/b/a/ SCS-Lawyers Incorporating Service Company, 701 Brazos Street, Suite 1050, Austin Texas 78701.

## **JURISDICTION & VENUE**

4. This is a claim for patent infringement arising under the patent laws of the United States as set forth in Title 35 of the United States Code.  
This Court has jurisdiction over the subject matter of the present claims pursuant to 28 U.S.C. §§1331 and 1338(a).
5. Venue against Defendants is proper in this District pursuant to 28 U.S.C. §1400(b). Defendants either reside or have committed acts of infringement in this district.
6. Defendants are subject to personal jurisdiction in this judicial district  
because they are doing business and have caused injury to Plaintiff in  
this district by engaging in acts of patent infringement within this district.

### **THE PATENTS AT ISSUE**

7. Plaintiff BMS is the assignee and owner of United States Patent No. 5,873,209 ("the '209 patent") entitled "FRAME WITH INTEGRAL ENVIRONMENT RESISTANT MEMBERS" and United States Patent No. 5,950,391 ("the '391 patent") entitled "FRAME WITH INTEGRAL ENVIRONMENT" (collectively "the BMS patents").
8. The '209 patent was filed on April 22, 1997, and was duly and properly issued on February 23, 1999. The '209 patent is hereby incorporated by reference herein, and a copy is appended hereto as Exhibit A.
9. The '209 patent is a continuation of United States Patent No. 5,661,943 that claims a priority filing date of March 8, 1996.
10. The '391 patent was filed on August 6, 1998, and was duly and properly issued on September 14, 1999. The '391 patent is hereby incorporated by reference herein, and a copy is appended hereto as Exhibit B.
11. The '391 patent is a continuation of United States Patent No. 5,873,209 that claims a priority filing date of March 8, 1996.

### **CLAIM**

12. Plaintiff BMS adopts, realleges and incorporates by reference, as if fully set forth herein, Paragraphs 1 through 11 of this Complaint.
13. Defendants have knowledge of the Plaintiff's '209 and '391 patents.
14. Defendants manufacture and sell doorframes and/or doorframe components having a moisture resistant lower portion, or portions.

15. Defendants sell infringing products under the trademark Stanley®.
16. By making, selling and/or offering to sell said side jambs and/or said door frames, Defendants are infringing, and contributing to the infringement and/or inducing the infringement of the BMS patents.
17. Defendants' acts of infringement have caused, are causing, and will continue to cause irreparable injury to Plaintiff BMS.
18. Defendants' acts of infringement have been willful and deliberate.

**WHEREFORE**, Plaintiff BMS respectfully demands judgment from this Court against Defendants, its successors, subsidiaries, affiliates, officers, agents, servants, employees, and all persons in active concert or participation as follows:

(A) An order and/or declaration that Defendants have and are continuing to infringe one or more claims of the BMS patents;

(B) An injunction, permanently enjoining Defendants, their successors, subsidiaries, affiliates, officers, agents, servants, employees and all persons in active concert or participation with it, each and all of them, from infringing, inducing the infringement, and/or contributing to the infringement of the BMS patents;

(C) An award of damages to Plaintiff BMS, sufficient to adequately compensate Plaintiff for all of Defendants' acts of infringement;

(D) A finding that said infringement by Defendants is willful and deliberate, and a corresponding award of increased damages to Plaintiff BMS as provided therefore under 35 U.S.C. §284;

(E) An award of prejudgment interest to Plaintiff BMS on all sums recovered from Defendants;

(F) A finding that this case is exceptional under 35 U.S.C. §285, and that Plaintiff BMS is thereby entitled to its costs and attorney's fees incurred in bringing this action against Defendants;

(G) An order directing Defendants to file with the Court and serve upon Plaintiff BMS within thirty (30) days after the issuance by this Court of any injunction, a report, in writing and under oath, setting forth in detail the manner and form in which Defendants have complied with said injunction; and

(H) An award to Plaintiff BMS of such other and future relief as may be provided by law.

#### DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff BMS hereby demands a trial by jury as to all issues so triable.

Respectfully submitted,

Dated: August 19, 2004



Counsel to Plaintiff, BURNS, MORRIS &  
STEWART LIMITED PARTNERSHIP

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